

Attorney Docket No.: PP00362.102 (CHIR-362/00US)
USSN 09/674,183

Group V. Claims 29-32, drawn to methods of recombinantly preparing a five T cell epitope-containing carrier protein.

In response, applicants elect to proceed with the claims of Group I, claims 1-17, 19, 21 and 23, with traverse. Applicants expressly reserve their right under 35 USC §121 to file one or more divisional applications directed to the nonelected subject matter during the pendency of this application.

Applicants traverse the restriction for the following reasons. The subject application is a National Phase filing of PCT/IB99/00844 filed under 35 U.S.C. 371. Accordingly, questions of unity must be resolved using the criteria of Rule 13 of the Patent Cooperation Treaty (PCT). Thus, the salient question is whether all of the claims define a special technical feature. Contrary to the Examiner's allegations, the present claims indeed patentably distinguish over Paradiso et al., *Vaccine Res.* (1993) 2:239 ("Paradiso") and therefore define a special technical feature. Paradiso does not describe a carrier protein comprising at least five CD4+ T cell epitopes. See, Tables 5 and 6 therein.

Additionally, the situation involving a product and its use (i.e., the claims found in Groups I, II and III), as well as a protein and DNA encoding the protein (Groups I and IV) is addressed in Annex B, Part 2, of the PCT Administrative Instructions. In particular, the following examples are given in the Administrative Instructions:

Example 1

- | | |
|----------|---|
| Claim 1: | A method of manufacturing chemical substance X. |
| Claim 2: | Substance X. |
| Claim 3: | The use of substance X as an insecticide. |

Unity exists between claims 1, 2 and 3. The special technical feature common to all claims is substance X.

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Example 17

Claim 1: Protein X
Claim 2: DNA sequence encoding protein X.

Expression of the DNA sequence in a host results in production of a protein which is determined by the DNA sequence. The protein and the DNA sequence exhibit corresponding special technical features. Unity between claims 1 and 2 is accepted.

Similarly, the special technical feature common to all claims in the subject application is a five T cell epitope-containing carrier protein. Accordingly, Applicants submit that the present claims exhibit unity of invention within the meaning of Rule 13 of the PCT. Examination of at least the claims of Groups I, II, III and IV together is therefore appropriate.

Moreover, the International Searching Authority treated all of the claims filed in the PCT priority application as a single invention and the claims in the PCT application were deemed to have unity of invention. A copy of the PCT Search Report and Written Opinion, as well as a copy of the claims of the PCT application, accompany this response. Thus, as recognized by the PCT, the pending claims cover a single invention and should be treated similarly by the U.S. Patent and Trademark Office.

Thus, applicants respectfully request examination of all claims at this time.

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